

ORDINANCE NUMBER O- **21430** (NEW SERIES)

DATE OF FINAL PASSAGE **FEB 03 2022**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO AUTHORIZING CONSTRUCTION AND
MAINTENANCE, EASEMENT AND REIMBURSEMENT
AGREEMENTS WITH THE SAN DIEGO ASSOCIATION OF
GOVERNMENTS AND BURLINGTON NORTHERN SANTA
FE RAILWAY FOR CONSTRUCTION IMPROVEMENTS ON
THE BAYSHORE BIKEWAY AT HARBOR DRIVE IN
BARRIO LOGAN.

WHEREAS, this action approves a Construction and Maintenance Agreement with the San Diego Association of Governments (SANDAG) and Burlington Northern Santa Fe Railway (BNSF), and an Easement Agreement, and Memorandum of Easement with BNSF, as well as a Reimbursement Agreement with SANDAG, for the construction of improvements on the Bayshore Bikeway including the bikeway crossing at the railroad tracks at Harbor Drive in Barrio Logan; and

WHEREAS, the Bayshore Bikeway is a planned 24-mile path around San Diego Bay and SANDAG is funding and constructing the improvements within the City from 32nd Street to Park Boulevard; and

WHEREAS, in 2009, the City signed Cooperative Agreement C-15015 with SANDAG detailing project review procedures between SANDAG and the City and this project segment of the Bayshore Bikeway is under review with the City's Development Services Department; and

WHEREAS, as part of the project, improvements to the rail crossing on Harbor Drive are being made to benefit bicycle safety across the railroad tracks; and

WHEREAS, SANDAG is funding the construction of the project as well as the cost of obtaining the easement from BNSF; and

WHEREAS, the easement will allow public access to the crossing as well as allow the City to perform maintenance; and

WHEREAS, the Construction and Maintenance Agreement sets forth the maintenance obligations of BNSF and the City that will be in effect once construction of the improvements are complete; and

WHEREAS, SANDAG will pay, on behalf of the City, a one-time lump sum payment of \$58,912.00 to BNSF for 20 years of advance rail crossing signal maintenance costs; and

WHEREAS, upon project completion and acceptance, the City will reimburse SANDAG for the one-time lump sum payment in an amount not to exceed \$58,912.00 in accordance with the Reimbursement Agreement; and

WHEREAS, the Construction and Maintenance Agreement will extend for a period of more than five years, and under City of San Diego Charter section 99, no contract, agreement or obligation extending for a period of more than five years may be authorized except by Ordinance approved by a two-thirds majority vote of the City Council; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the Mayor, or his designee, is authorized to execute, for and on behalf of the City, the Construction and Maintenance Agreement, Easement Agreement, and Memorandum of Easement between the City, SANDAG, and BNSF, under the terms and conditions set forth in the Construction and Maintenance Agreement, Easement Agreement, and Memorandum of Easement, on file in the Office of the City Clerk as Document No.

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Section 2. That the Mayor, or his designee, is authorized to execute, for and on behalf of the City, a Reimbursement Agreement with SANDAG, under the terms and conditions set forth

in the Reimbursement Agreement, on file in the Office of the City Clerk as Document No.

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Section 3. That the Chief Financial Officer is authorized to expend an amount not to exceed \$58,912.00 from fund 100000, General Fund, Business Area 2116, Transportation Department per the terms of the Reimbursement Agreement, contingent upon the adoption of the Appropriation Ordinance of the applicable fiscal year, and contingent upon the Chief Financial Officer first providing one or more certifications that the funds are, or will be, on deposit with the City Treasurer.

Section 4. That the Chief Financial Officer, upon advice from the administering department, is authorized to transfer excess funds, if any, to the appropriate reserves.

Section 5. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Cassandra E. Mougin
Cassandra E. Mougin
Deputy City Attorney

CEM:cw
12/15/21
Or.Dept: Transportation Department
CC No.: N/A
Doc. No.: 2835312

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JAN 25 2022

ELIZABETH S. MALAND
City Clerk

By Cecilia Patterson
Deputy City Clerk

Approved: 2/2/22
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on JAN 25 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 03 2022.

AUTHENTICATED BY:

TODD GLORIA

Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JAN 11 2022

, and on FEB 03 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

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